IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 627 of 2001

with

CIVIL REVISION APPLICATION No 588 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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SAMATA ENTERPRISES

Versus

RANI SATI TEXTILES

Appearance:

1. Civil Revision Application No. 627 of 2001
   MR NS SHETH for Petitioner No. 1
   MR UNMESH D SHUKLA for Respondent No. 1
   MR BG JANI for Respondent No. 1
   RULE SERVED for Respondent No. 2
2. Civil Revision Application No. 588 of 2001
   MR NS SHETH for Petitioner No. 1
   MR UNMESH D SHUKLA for Respondent No. 1

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 04/09/2002

ORAL JUDGEMENT

These two revison applications are filed against the order passed by the ld. Chamber Judge, City Civil Court, Ahmedabad on 10.2.2000 in Summary Suit No. 4912 of 1998 and in Summary Suit No. 4816 of 1998 respectively.

2. The petitioners who are the original plaintiffs in the suits, have filed Summary Suits before the City Civil Court, Ahmedabad for a decree of Rs. 2,76,000/ and Rs. 3,00,000/ respectively. On service of summons, the repsondents who were ori. defendants have appeared and after filing of the summons for judgment by the petitioners, the respondents have filed leave to defend applications in both the suits and the ld. Chamber Judge after hearing the learned advocates for the parties, have granted unconditional leave to the respondents.

3. Being aggrieved by the said orders, the present petitioners have filed these revision applications under sec. 115 of CPC and have challenged the impugned orders passed by the ld. Chamber Judge.

4. I have heard Mr. NS Sheth learned advocate for the petitioners and BG Jani and Mr. UD Shukla learned advocates for the respondents. The ld. Chamber Judge has considered the submissions of the parties and appreciated the evidence placed before him and after careful consideration, the ld. Chamber Judge has come to the conclusion that the claim of the petitioner can be determined and finalised only at the time of trial and on that ground unconditional leave was granted to the respondents.

5. It is urged on behalf of the respondents that in view of the amendment made in sec. 115 of CPC the present revision applications are not maintainable. Even if the present revision applications are allowed in favour of the petitioners and some conditions may be imposed or at the most leave may be refused or a decree may be passed,in that case also this Court cannot interfere in these revision applications while exercising the powers under sec. 115 of CPC. Mr. Sheth the learned advocate for thepetitioners, however, strongly urged that revisions are still maintainable and this Court should either very by imposing conditions or reverse the impugned orders.

6. I am of the view that no interference is called for in the interim orders passed by the ld. Chamber Judge as after recording the finding of fact that there are triable issues involved in the suit, unconditional leave was granted to the respondents. I, therefore, reject both these revision applications. Rule is discharged in both the matters with no order as to costs. Interim relief stands vacated.

7. However, looking to the facts and circumstances of the case and looking to the nature of the claim made in the suits, the ld. City Civil Judge is directed to expedite the suit and dispose it of as expeditiously as possible and preferably within a period of six months from the date of receipt of the writ of this order or from the date of receipt of the certified copy of this order, whichever is ealrier.

(K.A. PUJ, J.)
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